

PLEASE PRINT CLEARLY OR TYPE

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF WAKE

JUDITH KNECHTEGES,

(your name)

PETITIONER,

v.

NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY,

RESPONDENT.

(The State agency or board about which you are complaining)

**PETITION
FOR A
CONTESTED CASE HEARING
(N.C. Gen. Stat. § 126)**

I hereby ask for a contested case hearing as provided for by North Carolina General Statutes §126-34.02 because the Respondent has acted as follows:

(4) **MY APPEAL IS BASED ON:** (check all that apply)

* ☐ discharge without just cause ☐ suspension without just cause ☐ demotion without just cause
☒ failure to receive priority consideration ☐ other (explain)

* The following occurred due to discrimination and/or retaliation for opposition to alleged discrimination:

☐ employment ☐ demotion
☐ promotion ☐ layoff
☐ training **AND/OR** ☐ termination
☐ transfer

☒ other (explain) Violation of Whistleblower Act, N.C.G.S. Chapter 126, Article 14

(5) Briefly state facts showing how you believe you have been harmed by the State/local agency or board:

Petitioner is a career employee who applied for a promotion and was denied promotional priority in favor of a candidate who was not part of the State Government workforce lacking substantially equal job related qualifications. Additionally, Petitioner engaged in activities protected by N.C.G.S. 126-84 and because of those activities and reports Respondent took adverse employment action against by denying her a promotion in violation of N.C.G.S. 126-85. By taking these actions Respondent deprived Petitioner of property and substantially prejudiced Petitioner's rights and additionally (1) Exceeded its authority or jurisdiction, (2) Acted erroneously, (3) Failed to use proper procedure, (4) Acted in violation of Constitutional provisions (5) Failed to act as required by law or rule, and/or (6) Was arbitrary, and capricious, and/or abused its discretion. Petitioner demands promotion, back pay, costs, and attorney's fees, as well as treble damages and injunctive relief for a willful violation of the Whistleblower Act. DPS refused to process Petitioner's internal grievance; accordingly this petition is filed under the authority of Hunt v. DPS.

Paygrade: 65+ Months of continuous State employment: 24+ Job title: DPS Central Prison Healthcare

If applicant, I applied for:

(6) Date: May 22, 2020(7) Your phone number: (919) 865-2572 (c/o Law Offices of Michael C. Byrne)

(8) Print your address: c/o Michael C. Byrne, Attorney150 Preston Executive Dr. Suite 201 Cary NC 27513

(street address/p.o. box)

(city)

(state)

(zip)

(9) Print your name: JUDITH KNECHTEGES by counsel (10): /s/ Michael C. Byrne

You must mail or deliver a **COPY** of this Petition to the agency or board named on line (3) of this form. You should contact the agency or board to determine the name of the person to be served.

CERTIFICATE OF SERVICE

I certify that this Petition has been served on the agency or board named below by depositing a copy of it with the United States Postal Service with sufficient postage affixed **OR** by delivering it to the named agency or board:

(11) Jane Ammons Gilchrist, General Counsel (12) North Carolina Department of Public Safety

(name of person served)

(agency or board listed on line 3)

(13) NC Department of Public Safety, 4201 Mail Service Center, Raleigh NC 27699 (address)

(14) May 22, 2020 (15) /s/ Michael C. Byrne

(your signature)

When you have completed this form, you **MUST** mail or deliver the **ORIGINAL AND ONE COPY** to the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714.

Filing a Petition for a Contested Case Hearing **does not** constitute the filing of a discrimination charge with the EEOC or the Civil Rights Division of the Office of Administrative Hearings. Should you decide to file such a charge, you should contact the Office of Administrative Hearings, Civil Rights Division or the EEOC office nearest you; EEOC offices are located in the following cities: Charlotte, Raleigh, and Greensboro.

INSTRUCTIONS FOR FORM H-06A (personnel)
“PETITION FOR A CONTESTED CASE” AND “CERTIFICATE OF SERVICE”

PLEASE PRINT CLEARLY OR TYPE

FILL IN BLANKS:

Fill in your county of residence on line (1), print your name on line (2), and the name of the agency or board about which you are complaining on line (3). Check all of the items that apply in section (4), and briefly state the facts about your case on line (5); you may add additional pages if necessary. Fill in the subsequent blanks (paygrade, months of employment, etc.), enter the date on line (6), your telephone number on line (7), your full address on line (8), print your name on line (9), and sign your name on line (10).

CERTIFICATE OF SERVICE:

You must mail or deliver a copy of your completed petition to the agency or board involved and complete the “certificate of service” section on your petition, entering the name of the person to whom you mailed or delivered the petition on line (11). You should contact the agency or board to determine the name of the person to be served. Print the name of the agency/board involved on line (12), the address of the agency/board on line (13), the date on line (14), and sign your name on line (15).

FILING YOUR PETITION WITH THE OFFICE OF ADMINISTRATIVE HEARINGS:

Your contested case will commence as soon as you file your completed original petition, along with a copy, properly signed, with the Office of Administrative Hearings. Below are the mailing and physical addresses:

If you mail this form, the case commences when it is **received and filed** in this office.

Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6714

Office of Administrative Hearings
424 North Blount St.
Raleigh, NC 27601-2817

You may file your petition by fax during normal business hours by faxing the petition to the Clerk's Office at (919) 733-3478.

You may file your petition by electronic mail by an attached file either in PDF format or a document that is compatible with or convertible to the most recent version of Word for Windows by sending the electronic transmission to oah.clerks@ncmail.net. Electronic mail without attached file shall not constitute a valid filing.

OAH must receive the original signed document and one copy within seven business days following the fax or electronic transmission for the petition to be deemed "filed" on the fax or electronic transmission date.